IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE

CRIMINAL APPLICATION NO. 5204 OF 2004
IN
CRIMINAL APPEAL NO.1444 OF 2004

1. Nitin Shivaji Morade
2.Shivaji Kachru Morade
3.Sau. Sheelabai Shivaji Morade.

All residing at Post Masrul,
Tal. and Dist. Nasik. ...Applicants.

V/s.

The State of Maharashtra .. Respondent.

Shri Shirish Gupte withn Mr. P.L. Bhujbal for the applicants.

Shri B.R. Patil, P.P. for the Respondent/State

CORAM : S.B. MHASE &
ANOOP V.MOHTA, JJ.

DATE : 7TH DECEMBER, 2004.

P.C.

. Heard Mr. Shirish Gupte for the applicants and Mr. B.R. Patil, P.P. for the respondent. The incident has taken place on 21st August, 2003. at 11.00 p.m. It is the prosecution case that the deceased was set on fire by the accused. There are two dying declarations recorded by the police and Magistrate simultaneously. However, it is revealed that prior to the admission of the deceased to the Government Hospital

the deceased was taken to the private hospital and at private hospital the history reported was that of the accidental fire burnt. It is further revealed from the cross-examination of the panch witness, who was present when the deceased was taken to the hospital that the deceased had reported to the persons gathered at that place, that it was an accidental fire and she received burnt injuries. Therefore, prima facie, we accept the submission made by the learned Counsel, Mr. Gupte and the conviction and the implication of the accused is a result of the parental relations when they came into the Government hospital. The learned Counsel, A.P.P. Mr. Patil vehemently opposed the grant of bail on ground that there is a consistent dying declaration. However, in the above referred circumstances, it is not possible to accept his submission.

2. All the accused were on bail during the trial and they have not misused the bail. Therefore, we are inclined to suspend the sentence and release the applicants/accused on bail. Therefore, the following order.

. The sentence of the applicants/accused is hereby

suspended till the final disposal of this appeal. Each of the applicants/accused be released on bail on P.R. bond of Rs. 15000/- with the like surety. Each of the applicants/accused may tender two sureties for the said amount. They shall not change the residence and shall report to the concerned police station once in a week i.e. on Sunday in between 10 to 11 a.m.

. Parties concerned to act on a simple copy of this order, duly authenticated by the Registry of this Court.

[ANOOP V. MOHTA, J.] **[S.B.MHASE, J.]**